

BOARD OF COMMISSIONERS  
HEARING DOCUMENT

HABITAT CONSERVATION ORD-

## CLARK COUNTY STAFF REPORT

**DEPARTMENT:** ESA Program

**DATE:** July 3, 2006

**REQUEST:** After considering public comment, adopt amendments to the Habitat Conservation Ordinance to protect habitat functions and values from effects of agricultural activities.

---

**BACKGROUND:** The Habitat Conservation Ordinance is a GMA required critical areas ordinance. The original ordinance, passed in 1997, was remanded to the BOCC because it exempted all agriculture from regulation. The GMA mandates periodic review of the ordinance using best available science (BAS) and giving special consideration to anadromous fish. The review resulted in passage of amendments to the ordinance on June 20, 2006. The adopted amendments dealt with all review topics except regulating agricultural activities to protect habitat functions and values. At the June 20, 2006 hearing, the BOCC re-opened public comment for proposed agricultural regulations only and set a new public hearing for July 11, 2006. The Board directed staff to prepare and circulate for comment two proposed approaches to regulations. These approaches have resulted from public and interest group input as well as Board discussion.

**COMMUNITY OUTREACH:** A list of meetings and attendees is included in the Background Documentation/Citizen Participation Book (Book II) that was provided at earlier hearings.

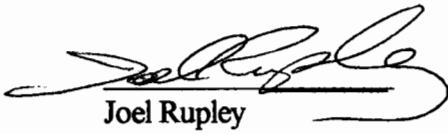
**BUDGET AND POLICY IMPLICATIONS:** Adoption of agricultural activities regulations within the amended Habitat Conservation Ordinance will bring the county into compliance with the GMA Hearings Board remand of the 1997 ordinance. Under Version 1 of the proposals, agricultural landowners choosing to adopt a protection plan would not be subject to a county fee, since no county review is required. Those agricultural landowners not choosing to develop a habitat protection plan would be required to obtain habitat permits for any clearing in designated riparian habitat areas. Habitat clearing permit fees are \$541 (CCC 6.110A), and are intended to cover the cost of review. Under Version 2 of the proposals, there are no reviews by county staff, and no fees are required. If recording of protection plans is required, recording fees may be an expense to the county.

**FISCAL IMPLICATIONS:** A description of specific implementation actions and associated fiscal implications is included in the Working Summary Book (Book I) provided at earlier hearings. Implementation of the draft agricultural amendments will require considerable planning time commitments from various departments. External agencies such as the Conservation District may also incur expenses during protection plan guidance development. Ongoing training costs have been estimated to be \$100,000 annually by the Conservation District. The county may be asked to share these costs until the district can find a stable alternate source of revenue. Implementation may also

require recording the protection plans with associated recording fees. Ongoing review expenses will be limited to periodic review of guideline effectiveness.

**ACTION REQUESTED:** Conduct a hearing and, after considering public comment, adopt amendments to the Habitat Conservation Ordinance to protect habitat functions and values from effects of agricultural activities.

**DISTRIBUTION:** Bill Barron, Rich Lowry, Bronson Potter, Rich Carson, Marty Snell, Auditor, OBIS

  
Joel Rupley  
ESA Program Coordinator

Approved: \_\_\_\_\_  
CLARK COUNTY  
BOARD OF COMMISSIONERS

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE relating to critical lands; revising the County Habitat Conservation Ordinance (Ch. 40.440 CCC); adopting conforming definitions (CCC 40.100.070); and providing for a delayed effective date.**

**BACKGROUND/PROCESS**

1       WHEREAS, the Washington State Growth Management Act (GMA), in RCW  
2   36.70A.130, requires counties to periodically revise and update critical area ordinances to ensure  
3   continuing compliance with the Act; and

4       WHEREAS, the County's 1997 Habitat Conservation ordinance (HCO) was generally  
5   upheld by the Washington Growth Management Hearings Board in *CCNRC v. Clark County*,  
6   *WWGMHB No. 96-02-0017 (11/2/97)*, except as it relates to the current exemption for existing  
7   agricultural activities; and

8       WHEREAS, the Board appointed a HCO Working Group charged with making  
9   recommendations on protection of habitat areas from the effects of existing agricultural and  
10   animal husbandry activities; and

11       WHEREAS, the working group has forwarded its recommendations to the Board; and

12       WHEREAS, the Clark County Planning Commission held a duly advertised public  
13   hearing related to HCO revisions on October 13, 2005, and has forwarded its recommendations;  
14   and

15       WHEREAS, the Board has held its own duly advertised public hearings related to HCO  
16   revisions on November 22, 2005, May, 2, 2006, and May 30, 2006; and

WHEREAS, the Board of County Commissioners, on June 20, 2006, adopted amendments to the HCO addressing all issues raised during the required revision and review process except regulation of agricultural activities; and

#### **EXISTING AGRICULTURAL ACTIVITIES**

WHEREAS, the Hearings Board decision in *CCNRC v. Clark County* found that the current HCO exemption for existing agricultural activities to be GMA noncompliant; and

WHEREAS, additional guidance relating to the scope of the GMA mandate that local habitat conservation ordinances cover existing agricultural activities has been provided by Washington State Court of Appeals' decisions in *Whidbey Envtl. Action Network v. Island County*, 122 Wn. App. 156 (2004), and *Clallam County v. Western Washington Growth Management Hearings Board*, 130 Wn. App. 127 (2005); and

WHEREAS, the Board of County Commissioners hereby expresses its frustration in dealing with the existing agricultural remand due to (1) the Board's agreement with Judge Bridgewater's dissent in the Clallam County decision (which has been accepted for review by the State Supreme Court) concluding that the GMA does not mandate regulation of preexisting land uses in critical areas; (2) the failure of the Governor's multi-year Ag, Fish and Water Initiative (which convened representatives from agricultural interests, state and federal agencies, the legislature, tribes, environmentalists, and counties to develop recommended guidelines for addressing the protection of streams and habitats from degradation due to agricultural activities) to produce collaborative recommendations; (3) the failure of the State Legislature to provide guidance concerning its intentions regarding this issue; (4) the failure of reviewing agencies to give appropriate weight to other GMA goals, particularly Goal 8 relating to maintaining and enhancing natural resource-based industries, in addressing critical area regulation of existing

agricultural activities; and (5) the resulting absence of general consensus on application of BAS in crafting critical area regulations dealing with existing agricultural activities; and

WHEREAS, the Board of County Commissioners has confidence that people who farm their land either already do, or are willing to, stay out of the water and off the banks in order to preserve habitat necessary for clean water for fish and habitat for other wildlife; and

WHEREAS, local critical area regulations of existing agricultural activities should be crafted to ensure no net loss of habitat functions and values given baseline conditions reflecting historic agricultural practices, and not seek restoration of pre-agricultural conditions; and

WHEREAS, the Board of County Commissioners finds that balancing the conflicting GMA goals of protecting agriculture and fish and wildlife habitat requires both scientific and economic consideration, that agricultural areas can provide diverse habitat, that restoration of ecological processes may be necessary to preserve habitats over the long term, that the ordinance must be enforced to ensure fairness to all, and that the burden of protection and restoration must be shared by all; and

## CONCLUSIONS

WHEREAS, the Board of County Commissioners finds that habitat functions and values must be protected while allowing for reasonable use of private property, that protections of priority species must be preserved with as minimal loss of property and use as possible, that education and outreach are preferred to regulation, and that the landscape varies across the county, so site specific, flexible implementation is needed; and

WHEREAS, the Board finds that the HCO revisions and conforming amendments adopted herein strike an appropriate balance between competing GMA goals of preserving

agricultural and animal husbandry uses and protecting critical lands, and are otherwise in the best public interest; and

WHEREAS, implementation of the provisions of this ordinance relating to existing agricultural and animal husbandry uses should be delayed in order to allow sufficient time for development of guidelines, training and certification of ag-habitat technicians, and public outreach and education; now, therefore,

BE IT ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

**Section 1.     Amendatory.**

Those revisions to the County Habitat Conservation Ordinance (*Ch. 40440 CCC*) contained in Exhibit “A” attached hereto are hereby adopted.

**Section 2.     Amendatory.**

Those conforming amendments to CCC 40.100.070 (Definitions) contained in Exhibit “B” attached hereto are hereby adopted.

**Section 3.     Work Programs.**

The ESA Program Coordinator, in coordination with other affected departments, shall develop a work programs for Board approval dealing with the following:

(A) Develop the Education, Training, and Outreach Programs, as provided for in Section 40.440.040(B).

(B) Develop guidelines relating to agricultural practices, as provided for in Section 40.440.040(B)(2)(a)(4). It is the intent of the Board that such guidelines incorporate concepts relating the best management practices recommended by the Clark-Cowlitz Farm Bureau in its alternative ordinance proposal.

(C) Revise the current users' guide for the Habitat Conservation Ordinance to include discussion of the present ordinance revisions.

**Section 4. Effective Date.**

This ordinance shall take effect at midnight on \_\_\_\_\_

**Section 5. Instructions to Clerk.**

The Clerk of the board shall:

- 1) Transmit a copy of this ordinance to the Washington State Department of Community Trade and Economic Development within ten (10) days of its adoption, pursuant to RCW 36.70A.106;
- 2) Record a copy of this Ordinance with the Clark County Auditor; and
- 3) Cause notice of adoption of this ordinance to be published forthwith, pursuant to RCW 36.70A.290.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

BOARD OF COMMISSIONERS FOR CLARK  
COUNTY

Attest:

\_\_\_\_\_  
Clerk to the Board

By: \_\_\_\_\_  
Marc Boldt, Chair

Approved as to form only:  
ARTHUR D. CURTIS,  
Prosecuting Attorney

By: \_\_\_\_\_  
Steven J. Stuart, Commissioner

\_\_\_\_\_  
Richard Lowry, WSBA #4894  
Chief Civil Deputy

By: \_\_\_\_\_  
Betty Sue Morris, Commissioner



EXHIBIT "A" Version 1

40.440 HABITAT CONSERVATION

40.440.010 INTRODUCTION

A. Purpose.

4. The provisions of this chapter dealing with existing agricultural activities recognize:

a. That the maintenance and enhancement of natural resource-based industries, including agriculture, is a goal of the state Growth Management Act;

b. That any regulation should be consistent with the "right to farm" provisions in Chapter 9.26 of this Code;

c. That agricultural lands can provide habitat;

d. That habitat protection must relate to the baseline of existing functions and values given historic agricultural practices, rather than seeking to restore pre-agricultural conditions;

e. That since agricultural activities are dynamic, habitat functions and values can be expected to fluctuate during the course of an agricultural cycle, which fluctuation must be considered in identifying existing functions and values; and

f. That it is expected that continuation of existing agriculture will not degrade existing functions and values unless sediment, nutrients, or chemicals are allowed to enter streams, or existing beneficial canopy in close proximity to streams is significantly degraded;

40.440.040 SPECIFIC ACTIVITIES

B. Agricultural Uses, including Animal Husbandry (~~reserved~~).

1. Applicability.

a. Non-riparian habitat.

(1) Agricultural activities in existence on or before [date of the ordinance adoption] within designated non-riparian habitat areas are presumed not to cause substantial degradation of existing habitat functions and values and are, therefore, exempt from regulation under this chapter.

(2) The conversion of designated non-riparian habitat areas to agricultural use subsequent to [the date of ordinance adoption] shall be subject to the non-development clearing rules of this chapter. Conversion does not include changes from one agricultural use to another agricultural use or changes in crops.

b. Riparian habitat.

(1) Agricultural activities in existence on [the date of ordinance adoption] within designated riparian priority habitat areas, and the expansion thereof onto

1 adjacent lands not to exceed twenty-five percent (25%) of the footprint of the  
2 existing agricultural use, shall, at the owner's option, be subject to:

3 (a) The agricultural module provided below; or

4 (b) The non-development clearing rules of this chapter.

5 (2) The conversion of designated riparian habitat areas to agricultural use,  
6 subsequent to [the date of ordinance adoption] shall be subject to the non-  
7 development clearing rules of this chapter. Conversion does not include  
8 changes from one agricultural use to another agricultural use or changes in  
9 crops.

10 2. Agricultural module. Where the owner elects to implement an agricultural/habitat  
11 protection plan rather than to comply with the non-development clearing rules of this  
12 chapter, the following provisions apply:

13 a. Standard. An agricultural/habitat protection plan shall be approved if its  
14 implementation will provide for agricultural activities that will not substantially  
15 degrade riparian habitat functions and values that existed within the areas covered  
16 by the plan on [the date of ordinance adoption], considering normal fluctuations  
17 due to the agricultural cycle. A plan may be submitted by a group of  
18 neighborhood owners whose properties are in close proximity in which case the  
19 foregoing standard shall be applied to the common plan. The plan may include  
20 practices and other mitigation measures on all lands covered by the plan to  
21 achieve this standard.

22  
23 b. Plan contents. Agricultural/habitat protection plans shall, at a minimum, include  
24 the following:

25 (1) An approximate mapping of existing and proposed structures, roads,  
26 driveways, utilities, property lines, and agricultural uses.

27 (2) A map of the areas covered by the plan.

28 (3) Identification of riparian habitat functions and values existing within the areas  
29 covered by the plan on [the date of ordinance adoption].

30 (4) A description of best management practices and other mitigation measures to  
31 be undertaken in order to achieve the standard in subsection 2a, above.

32 (5) The owner's signature attesting that the information in the plan is accurate to  
33 the best of the owner's knowledge, and the mitigation measures specified in  
34 the plan will be implemented.

35 (6) The signature of an ag-habitat technician certified by the county attesting that  
36 they have inspected the area covered by the plan and that the plan satisfies the  
37 standard in paragraph (a) above.

38 c. Guidelines. The responsible official shall work with a committee appointed by  
39 the board to include interest group representatives (at least one of whom shall be a  
40 designee of the Clark-Cowlitz Farm Bureau, whose view(s) shall be given

1 appropriate weight to ensure that the guidelines will be both practical and cost  
2 effective) and habitat professionals to develop for board adoption following a  
3 duly advertised public hearing a set of guidelines which:

- 4 (1) includes a checklist to identify riparian habitat functions and values;  
5 (2) identifies potential negative habitat affects of various agricultural activities;  
6 and  
7 (3) describes practices and other mitigation measures to mitigate or  
8 minimize those effects;  
9 (4) includes "off-the-shelf" agricultural/habitat protection plans which are  
10 may be applied to typical agricultural properties and activities.  
11 The guidelines shall provide that pesticide use within riparian areas must be  
12 described in the management plan and conform to label instructions.

13 d. Approval. Agricultural/habitat protection plans shall be prepared or reviewed and  
14 approved by an ag-habitat technician certified by the responsible official to have  
15 completed a training program on application of the guidelines. Ag-habitat  
16 technicians shall have received training in application of this chapter, which  
17 training program shall be made available to any interested party. Training classes  
18 may be facilitated by interest groups such as the Clark-Cowlitz Farm Bureau  
19 using trainers from the Clark Conservation District, WSU Extension, or other  
20 groups as may be certified as qualified trainers by the responsible official. An ag-  
21 habitat technician shall approve the plan as meeting the standard and content  
22 requirements of subsection 40.440.040.B.2. An owner dissatisfied with the  
23 review by an ag-habitat technician may seek approval of the proposed  
24 Agricultural/habitat protection plan by the responsible official whose Type I  
25 decision may be appealed under the provisions of Chapter 40.510 (Type I, II,  
26 III, & IV Processes).

27 e. Filing. The ag-habitat technician shall notify the county responsible official of the  
28 adoption of an approved Agricultural/habitat protection plan by a property owner  
29 indicating the property covered by the plan and, at the choice of the property  
30 owner either providing a copy of the plan or summarizing the contents of the plan.  
31 Notice of such approval shall also be recorded with the Clark County Auditor and  
32 run with the land unless the plan is modified or rescinded.

33 f. Modification/rescission. Agricultural/habitat protection plans may be modified by  
34 the owner at any time utilizing the same process as applicable to initial approval.  
35 Agricultural/habitat protection plans may be rescinded by the owner with  
36 approval of the responsible official if the owner certifies either that future  
37 agricultural activities will be undertaken utilizing the non-development clearing  
38 rules of this chapter or agricultural activities have ceased. Notice of  
39 modification/rescission shall be recorded with the Clark County Auditor.

40  
41 3. Administration.

42 a. No application fees apply to the approval of Agricultural/habitat protection plans.

1        b. Evidence of violation of the standard in subsection 40.440.040(B)(2)(a)(1) shall  
2        be grounds for enforcement action under the provisions of Title 32 (Enforcement)  
3        and Section 40.440.030(F).

EXHIBIT "A" Version 2

40.440 HABITAT CONSERVATION

40.440.010 INTRODUCTION

A. Purpose.

4. The provisions of this chapter dealing with existing agricultural activities recognize:

- a. That the maintenance and enhancement of natural resource-based industries, including agriculture, is a goal of the state Growth Management Act;
- b. That any regulation should be consistent with the "right to farm" provisions in Chapter 9.26 of this Code;
- c. That agricultural lands can provide habitat;
- d. That habitat protection must relate to the baseline of existing functions and values given historic agricultural practices, rather than seeking to restore pre-agricultural conditions;
- e. That since agricultural activities are dynamic, habitat functions and values can be expected to fluctuate during the course of an agricultural cycle, which fluctuation must be considered in identifying existing functions and values; and
- f. That it is expected that continuation of existing agriculture will not degrade existing functions and values unless sediment, nutrients, or chemicals are allowed to enter streams, or existing beneficial canopy in close proximity to streams is significantly degraded;

40.440.040 SPECIFIC ACTIVITIES

B. Agricultural Uses, including Animal Husbandry (~~reserved~~).

1. Applicability.

a. Non-riparian habitat.

- (1) Agricultural activities in existence on or after [the date of ordinance adoption] within designated non-riparian habitat areas are presumed not to cause substantial degradation of existing habitat functions and values and are, therefore, exempt from regulation under this chapter.
- (2) The conversion of designated non-riparian habitat areas to agricultural use subsequent to [the date of ordinance adoption] shall be subject to the non-development clearing rules of this chapter. Conversion does not include changes from one agricultural use to another agricultural use or changes in crops.

b. Riparian habitat.

- (1) Agricultural activities in existence on [the date of ordinance adoption] within designated riparian habitat areas, and the expansion thereof onto adjacent lands not to exceed twenty-five percent (25%) of the footprint of the existing agricultural use

(Agricultural/habitat protection plan only), shall be subject to the agricultural module provided below.

(2) The conversion of designated riparian habitat areas to agricultural use, other than an expansion allowed for in subsection (b)(1) above, subsequent to [the date of ordinance adoption] shall be subject to:

(a) The Agricultural/habitat protection plan option (Section 40.440.040(B)(2)(a)), if undertaken on lands zoned agriculture, forest, or ag-wildlife;

(b) The non-development clearing rules of this chapter if undertaken on lands not zoned agriculture, forest, or ag-wildlife.

(c) Conversion does not include changes from one agricultural use to another agricultural use or changes in crops.

2. Agricultural module. Where applicable, the following options are available to be used for compliance with this section.

a. Agricultural/habitat protection plan option.

(1) Regulated area. For the purposes of an agricultural/habitat protection plan, the regulated riparian area shall be [100/250] feet from the ordinary high water mark of Type S streams, [100/200] feet from the ordinary high water mark of Type F streams, [75/100] feet from the ordinary high water mark of Type Np streams, and 75 feet from the ordinary high water mark of Type Ns streams. The plan may include practices and other mitigation measures on land outside the regulated riparian area to achieve the standard set forth in subsection (2) below.

(2) Standard. An agricultural/habitat protection plan shall be approved if its implementation will not substantially degrade habitat functions and values that existed within the area designated in subsection (1) above on [the date of ordinance adoption], considering normal fluctuations due to the agricultural cycle. A plan may be submitted by a group of neighborhood owners whose properties are in close proximity in which case the foregoing standard shall be applied to the common plan.

(3) Plan contents. Agricultural/habitat protection plans shall, at a minimum, include the following:

(a) An approximate mapping of existing and proposed structures, roads, driveways, utilities, property lines, and agricultural uses.

(b) A map of regulated riparian habitat areas.

(c) Identification of existing habitat functions and values within the regulated habitat area.

(d) A description of best management practices and other mitigation measures to be undertaken in order to achieve the standard in subsection a(2) above.

(e) The owner's signature attesting that the information in the plan is accurate to the best of the owner's knowledge, and the mitigation measures specified in the plan will be implemented.

(f) The signature of an ag-habitat technician certified by the county attesting that the plan satisfies the standard in subsection a(2) above.

1 (4) Guidelines. The responsible official shall work with a committee appointed by the  
2 board to include interest group representatives (at least one of whom shall be a  
3 designee of the Clark-Cowlitz Farm Bureau, whose view(s) shall be given  
4 appropriate weight to ensure that the guidelines will be both practical and cost  
5 effective) and habitat professionals to develop for board adoption following a duly  
6 advertised public hearing a set of guidelines which:

7 (a) includes a checklist to identify riparian habitat functions and values;

8 (b) identifies potential negative habitat affects of various agricultural activities; and

9 (c) describes practices and other mitigation measures to mitigate or  
10 minimize those effects)

11 (d) includes "off-the-shelf" agricultural/habitat protection plans which may  
12 be applied to typical agricultural properties and activities.

13 The guidelines shall provide that pesticide use within riparian areas must be  
14 described in the management plan and conform to label instructions.

15 (5) Approval. Agricultural/habitat protection plans shall be prepared by an ag-habitat  
16 technician certified by the responsible official to have completed a training program  
17 on application of the guidelines. Ag-habitat technicians shall have received training  
18 in application of this chapter, which training program shall be made available to any  
19 interested party. Training classes may be facilitated by interest groups such as the  
20 Clark-Cowlitz Farm Bureau using trainers from the Clark Conservation District,  
21 WSU Extension, or other groups as may be certified as qualified trainers by the  
22 responsible official. An ag-habitat technician shall approve the plan as meeting the  
23 standard and content requirements of subsection 40.440.040(B)(2)(a)(2) and (3). An  
24 owner dissatisfied with the review by an ag-habitat technician may seek approval of  
25 the proposed management plan by the responsible official whose Type I decision  
26 may be appealed under the provisions of Chapter 40.510 (Type I, II, III & IV  
27 Processes).

28 (6) Filing. The ag-habitat technician shall notify the county responsible official  
29 of the adoption of an approved Agricultural/habitat protection plan by a  
30 property owner indicating the property covered by the plan and, at the choice  
31 of the property owner either providing a copy of the plan or summarizing the  
32 contents of the plan. Notice of such approval shall also be recorded with the  
33 Clark County Auditor and run with the land unless the plan is modified or  
34 rescinded.

35 (7) Modification/rescission. Agricultural/habitat protection plans may be modified by  
36 the owner at any time utilizing the same process as applicable to initial approval.  
37 Plans may be rescinded by the owner with approval of the responsible official if the  
38 owner certifies either that future agricultural activities will be undertaken utilizing the  
39 default option or agricultural activities have ceased. Notice of  
40 modification/rescission shall be recorded with the Clark County Auditor.

41 b. Default option.

42 (1) Regulated area. For the purposes of the default option, the regulated riparian area is  
43 divided into two zones. Except as provided below the inner zone, closest to the  
44 stream, extends from the ordinary high water mark outward fifty (50) feet on Types S  
45 and F streams and thirty (30) feet on Type N streams. The outer zone extends an  
46 additional fifty (50) feet on Types S and F streams and forty-five (45) feet on Type N

1 streams. Where slopes exceed twenty-five percent (25%), the inner zone is the  
2 greater of the prescribed zone or the top of the slope break. Where wetlands are  
3 present within the inner zone, the zone is extended to the greater of the prescribed  
4 width of the inner zone or the wetland buffer as designated in Chapter 40.450  
5 (Wetland Protection). However, in no case is the inner zone greater than the  
6 combined widths prescribed for in the inner and outer zones for that stream type.  
7 Where there is an existing road within the inner zone, the zone stops at the edge of  
8 the road improvement that is closest to the stream and the outer zone extends outward  
9 from that edge.

10 (2) Standard. Clearing within the inner zone is allowed only to enhance habitat functions  
11 and values. Animal husbandry within the inner zone is prohibited. Clearing and  
12 animal husbandry within the outer zone shall not substantially degrade habitat  
13 functions and values as they existed on [the date of ordinance adoption], after  
14 considering normal fluctuations due to the agricultural cycle. Although it is  
15 presumed that continuation of agricultural activities within the outer zone that existed  
16 on [the date of ordinance adoption] will not substantially degrade existing habitat  
17 functions and values, evidence of degradation, such as excess sediment, nutrients or  
18 chemicals moving from the outer zone into the stream constitute grounds for  
19 enforcement action which may require restoration of lost functions and values.  
20 Pesticide application within the outer zone must conform to label specifications and  
21 application within the inner zone must be by a licensed applicator.

22 (3) Reasonable use. If the inner zone impacts more than fifty percent (50%) of a parcel  
23 that is ten (10) acres or less in area, or more than twenty-five percent (25%) of a  
24 parcel that is five (5) acres or less in area, the responsible official may approve a  
25 reasonable use reduction to the width of the inner zone. In such case, clearing and  
26 animal husbandry may be allowed up to ten (10) feet from the ordinary high water  
27 mark provided that reasonable practices and other appropriate mitigation measures  
28 are employed to limit sediment, nutrients and chemicals from entering the stream.

### 29 3. Administration.

30 a. No application fees apply to the approval of Agriculture/habitat protection plans.

31 b. No county review is associated with the default option unless the owner seeks approval of  
32 a reasonable use reduction of the inner zone, which application shall be processed  
33 without application fees.

34 c. Evidence of violation of the standards in subsections 40.440.040(B)(2)(a)(2) or  
35 (B)(2)(b)(2) shall be grounds for enforcement action under the provisions of Title 32  
36 (Enforcement) and Section 40.440.030(F).  
37



## EXHIBIT "B"

### AMENDATORY CODE PROVISIONS ASSOCIATED WITH THE HABITAT CONSERVATION ORDINANCE

#### "CONFORMING AMENDMENTS"

#### 40.100.070 DEFINITIONS

<u>Agriculture, or Agriculture Uses or Agricultural Activities</u>	<u>"Agriculture", or "Agriculture uses", or "Agricultural activities"</u> means the use of the land for agricultural purposes, including, <u>but not limited to</u> , farming, dairying pasturage, agriculture, horticulture, floriculture, viticulture and wineries, apiaries, and animal and poultry husbandry, and the necessary accessory uses <u>and structures for storing produce</u> ; provided, however, that the <u>construction and operation</u> of any such accessory use <u>or structure</u> shall be incidental to that of normal agricultural activities, and provided further, that the above uses shall not include slaughterhouses and meat packing or commercial feeding of animals.
<u>Animal husbandry</u>	<u>"Animal husbandry"</u> means the care and raising of <u>domesticated animals, such as cattle, horses, sheep, llamas, and poultry, but not including household pets, such as dogs and cats.</u>